

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3712 of 1997

TO

FIRST APPEAL No.3723 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SPECIAL LAND ACQUISITION OFFICER

Versus

SHIVABHAI NANJIBHAI

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Appearance:

MR PG DESAI, GOVERNMENT PLEADER for Appellants

MR AJ PATEL, for Respondents

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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 26/02/98

ORAL COMMON JUDGEMENT (PER ; BHATT, J )

Appeals admitted. Mr. AJ Patel, waives service on behalf of the concerned respondent-claimants.

At the joint request of the ld. counsel for the respective parties, these appeals are taken up for final hearing today.

The impugned judgment, taken in it overall

perspective, is in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, conclusions drawn therefrom and the findings of fact recorded.

We may, however, note that even otherwise the Reference Court has placed substantial reliance upon exh.22 which is a certified copy of a decision of this Court in a group of first appeals namely First Appeal Nos. 1555/95 to 1564/95 decided on 24.11.1995. In this context, it is required to be noted that the High Court, vide exh.22, decided Land Acq. Case Nos. 1137/87 to 1142/87 wherein lands under acquisition were located in a village directly adjoining and contiguous to the lands under acquisition in the present group of cases, namely village Khar. The distance between centre of the two villages may be just over 2 KMs, however, there is no dispute that the boundry between the two villages is the common boundry. Another significant but minor aspect is the the market value determined under exh.22 was determined by this Court at Rs. 13.70 ps. per sq.mt. arising from Sec.4 notification issued in the year 1987. In the instant case, the market value has been determined at 12.50 per sq.mt. by the Reference Court in the context of Sec.4 notification issued in the year 1984. Thus, since in the instant group of cases, notification under Sec.4 is prior to the one considered by this Court in exh.22, it is natural to be expected that all other factors being equal, lands presently under consideration would bear the market value which would be less than the lands considered by the High Court in its judgment and order at exh.22.

From the facts of the instant case, we do find that there is a significant and adequate difference maintained between the two market values. Or to put it conversely, the lands considered under exh.22 have been valued at about 10% higher than the lands in the instant case. This different in market value is completely in consonance with the general principles of appreciation in value attributable even to agricultural lands on the basic principle.

On the facts and circumstances of the instant case, ld. counsel for the appellant is unable to sustain the challenge to the common judgment and awards in the present group of appeals in view of other reliable and credible evidence on record. These appeals are, therefore, dismissed with no orders as to cost.

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